THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

W.P.No.18977 of 1996

Date:24.03.2006

Between:

V.Appala Naidu

-------PETITIONER

AND

The Mandal Revenue Officer

---------RESPONDENT

ORDER:

This writ petition is filed challenging the notice, dated 19.08.1996, issued by the respondent, in exercise of the powers under Section 3 of A.P. Assigned Lands (Prohibition of Transfers) Act, 1977 (for short 'the Act'). The petitioner was required to show cause as to why he should not be evicted from the land admeasuring Acs.4.76 cents in Sy.No.162 of Kandisa village. In the column relating to nature of occupation, registered document No.960, dated 19.08.1988, was mentioned. The petitioner contends that the land referred to in the show cause notice was not assigned to his transferors and that the provisions of the Act are not attracted to the transaction.

The respondent filed counter-affidavit, narrating the circumstances, under which the impugned notice came to be issued and an objection was taken to the very maintainability of the writ petition, since it is filed against a show cause notice. The respondent contends that he issued the show cause notice on noticing that the petitioner purchased an assigned land.

The learned counsel for the petitioner submits that when the land itself is not assigned or when there did not exist any conditions prohibiting alienation, the respondent does not have the jurisdiction to issue notice. Reliance is placed upon an order, dated 02.02.1998, passed by this Court in W.P.No.18789 of 1996.

The learned Government Pleader, on the other hand, submits that the writ petition is not maintainable against the show cause notice. It is also stated that the petitioner had already submitted explanation and he has to await the adjudication thereon.

It is not in dispute that the petitioner submitted his explanation in response to the show cause notice, dated 19.08.1996. The question as to whether the land specified in the schedule to the notice was assigned to any one or whether the alienation thereof in favour of the petitioner is hit by the provisions of the Act, has to be dealt with by the respondent. In addition to what is stated by him in his explanation, the petitioner can put forward such other contentions as he intends to. It is only in exceptional cases where the notice is issued by an authority not vested with the power, that writ petitions can be entertained against the notices.

In the order, dated 02.02.1998, passed in W.P.No.18789 of 1996, relied upon by the petitioner, a finding was recorded to the effect that in respect of the land specified in the concerned notice, no condition prohibiting alienation was incorporated. Even such a finding needs to be recorded by the respondent, after verifying the order of assignment or patta and other relevant records.

Therefore, the writ petition is disposed of, leaving it open to the petitioner to put forward all his contentions and place the relevant material before the respondent. If the petitioner feels any grievance after the respondent passed any order in pursuance of the show cause notice, it shall be equally open to him to pursue the remedies provided for under the Act. There shall be no order as to costs.

24.03.2006

kdl